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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,048	06/20/2001	Francois Cunchon	T2147-907310	2706

181   7590   03/17/2005

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER
NGUYEN, THAN VINH

ART UNIT	PAPER NUMBER
2187	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20050310

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Than Nguyen
Examiner
Art Unit: 2187

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 January 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>9-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This is a response to the request for reconsideration, filed 1/1/05.

2.   Claims 9-20 are pending.

Response to Arguments

3.   Applicant's arguments filed 1/1/05 have been fully considered but they are not

persuasive. Applicant argues that the prior art of record does not teach the rebooting/startup

being based on the automatic repair function. The Examiner disagrees. The prior art of record,

Alexander teaches the function of startup as powering on, or booting function (1/9-11).

Alexander also teaches an automatic repair function as the BIOS initialization, which detects for

errors upon startup/booting (1/10-19). If there is an error during the mounting function (POST),

the BIOS initialization routing will cause the computer will call the startup function, which

reboots the machine (1/40-45, 2/25-30). Thus, it is clear that the automatic repair function/BIOS

initialization function of Alexander triggers/calls the startup function (booting/rebooting

function) upon an error. The Examiner maintains the previous rejections.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

5.   Claim 9 recites the limitation "the mounting function" in line 8 of claim. There is

insufficient antecedent basis for this limitation in the claim. Claims 10-15 are also rejected for

the same deficiency.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

· A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander (US

6,393,559.

As to claim 9:

Alexander teaches a self-healing BIO initialization code. Alexander teaches the claimed

computing machine comprising a RAM (RAM; 1/15) and a mass memory (hard disk 1/33) in

which an operating system is stored, characterized in that the mass memory comprises a partition

that is read-only accessible to the operating system (1/20-25), said partition containing a startup

function (startup/boot up; 1/9-15), wherein for every startup of the computing machine, the

startup function calls the automatic repair function (BIOS init; 1/15-20), the automatic repair

function calls the mounting function (POST) and, if an error is detected during the mounting

function, the automatic repair function (BIOS init) automatically calls the startup function

(reboots if encounter error during BIOS initialization; 1/40-45; 2/23-30).

As to claim 10:

Alexander teaches the startup function comprises a first code sequence for loading the

contents of the partition into RAM (load BIOS; 1/20-25) and a second code sequence for

activating in RAM said automatic repair function (POST; 1/26-39)

As to claim 11:

Alexander teaches a third code sequence that calls said mounting function, executable in

RAM with write capability in at least one other partition of the mass memory (POST; 1/15-

20,33-35).

As to claim 12,13:

Alexander teaches a fourth code sequence for acknowledging an error indicated by said

mounting function and a fifth code sequence for restarting the machine after the

acknowledgment of the error (after error detected, reboot; 1/44-56).

As to claim 14:

Alexander teaches the mass memory is a hard disk (hard disk; 1/32).

As to claim 15:

Alexander teaches a switch for resetting the RAM and restarting the machine

(reset/reboot/startup switch, 1/9).

As to claim 16:

Alexander teaches a method for automatically starting a computing machine comprising a

RAM and a mass memory, characterized in that it comprises:

a step that starts the machine by means of a signal (startup/reset/reboot signal; 1/9);

a step that automatically loads into RAM the contents of a partition of the mass memory

(load BIOS; 1/12-15);

a step that automatically mounts an operating system from the RAM that includes the

repair function based on a call from the automatic repair function (mount operating system; 1/30-

37);

a step that automatically acknowledges any error indicated in the third step and that

reactivates the second step (detect error and reboot; 1/40-56; 2/23-30).

As to claim 17:

Alexander teaches a step that creates partitions in the mass memory (1/30-33); storing at

least part of the operating system and functions for executing a startup, the automatic repair

function is capable of calling a mounting function and an acknowledgment function in the first

partition, which is to be read-only accessible to said operating system (storing BIOS; 1/20-30).

As to claim 18:

Alexander teaches the automatic repair function acknowledges error(s) detected during

the mounting of the operating system (1/40-46).

As to claim 19:

Alexander teaches calling a standard acknowledgement function to repair the error (1/40-

63).

As to claim 20:

Alexander teaches an instruction sequence to call the mounting function (call POST;

1/15,34); an instruction sequence that can call a standard acknowledgement function

(acknowledge error; 1/44); and an instruction sequence that is capable of calling the startup

function upon return of the acknowledgement (reboot; 1/44).

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Than Nguyen whose telephone number is 571-272-4198. The

examiner can normally be reached on 8am-3pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Donald Sparks can be reached on (571)272-4201. The fax phone number for the

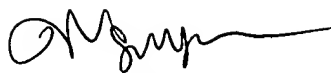organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Than Nguyen
Examiner
Art Unit 2187